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RESPONSE UNDER 37 C.F.R. 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3764

PATENT
Attorney Docket No. 101.0053-01000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|------------------------------|---|-------------------------|
| In re Application of: |) | Confirmation No.: 4993 |
| Gary Karlin Michelson |) | |
| Serial No.: 10/047,545 |) | Group Art Unit: 3764 |
| Filed: January 16, 2002 |) | Examiner: Michael Brown |
| For: THREADED FRUSTO-CONICAL |) | |
| INTERBODY SPINAL FUSION |) | |
| IMPLANTS |) | |

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY TO OFFICE ACTION

In reply to the Final Office Action of August 10, 2005, the period for reply having been extended for one month by a request for extension and fee payment filed concurrently herewith, Applicant submits the following remarks.

I. Request to withdraw finality

Applicant respectfully submits that the final rejection is premature under MPEP § 706.07(c) because no ground of rejection was provided for claim 168 and claim 168 was not indicated as being allowable. Applicant respectfully requests the Examiner to withdraw the finality of the last Office Action pursuant to MPEP § 706.07(d) and issue a non-final Office Action of the claims, including claim 168, on the merits.

II. Remarks pertaining to the Examiner's art rejection

In the Office Action, the Examiner rejected claims 154-166 and 169-194 under 35 U.S.C. § 102(e) as being anticipated by Zdeblick et al. ("Zdeblick"). Applicant respectfully traverses the Examiner's rejection. Independent claim 154 recites a spinal fusion implant having a leading end for insertion first into the disc space, at least one

Reply to Office Action 11-11-05.doc